



# Department of Justice

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**F. HOFFMANN-LA ROCHE AND BASF AGREE TO PAY RECORD CRIMINAL FINES  
FOR PARTICIPATING IN INTERNATIONAL VITAMIN CARTEL**  
**F. HOFFMANN-LA ROCHE AGREES TO PAY \$500 MILLION,  
HIGHEST CRIMINAL FINE EVER**

**Swiss Executive Agrees to Plead Guilty and Serve U.S. Jail Time**

WASHINGTON, D.C. -- A Swiss pharmaceutical giant, F. Hoffmann-La Roche Ltd today agreed to plead guilty and pay a record \$500 million criminal fine for leading a worldwide conspiracy to raise and fix prices and allocate market shares for certain vitamins sold in the United States and elsewhere, the Department of Justice announced. A German firm, BASF Aktiengesellschaft, also will plead guilty and pay a \$225 million fine for its role in the same antitrust conspiracy, the Department said.

In separate one-count criminal cases filed today in U.S. District Court in Dallas, the Department of Justice charged the corporations with conspiring to fix, raise, and maintain prices, and allocate the sales volumes of vitamins sold by them and other unnamed co-conspirator companies in the U.S. and elsewhere. The cases also allege that the companies allocated contracts for vitamin premixes for customers throughout the U.S. and rigged the bids for those contracts.

The conspiracy lasted from January 1990 into February 1999 and affected the vitamins most commonly used as nutritional supplements or to enrich human food and animal feed --

vitamins A, B2, B5, C, E, and Beta Carotene. Vitamin premixes, which are used to enrich breakfast cereals and numerous other processed foods were also affected by the conspiracy, the Department said.

“These prosecutions demonstrate that we will not allow international cartels to prey on American consumers in our globalized economy,” said Attorney General Janet Reno. “Those currently engaged in or contemplating similar conduct should take note of the high cost of getting caught – \$500 million is not only a record fine in an antitrust case, but it is the largest fine the Justice Department has ever obtained in any criminal case.”

The Department today also charged Dr. Kuno Sommer, former Director of Worldwide Marketing, Hoffmann-La Roche Vitamins and Fine Chemicals Division, with participating in the vitamin cartel and for lying to Department investigators in 1997 in an attempt to cover-up the conspiracy. Dr. Sommer, a Swiss citizen, has agreed to submit to the jurisdiction of the U.S. District Court in Dallas, plead guilty to both charges, serve a four-month prison term, and pay a \$100,000 fine.

“This conspiracy has affected more than five billion dollars of commerce in products found in every American household,” said Joel I. Klein, Assistant Attorney General in charge of the Department’s Antitrust Division. “During the life of the conspiracy, virtually every American consumer paid artificially inflated prices for vitamins and vitamin enriched foods in order to feed the greed of these defendants and their co-conspirators who reaped hundreds of millions of dollars in additional revenues.”

Including today's cases, there have been nine prosecutions in the ongoing investigation of the worldwide vitamin industry and the latest in a series of international conspiracy cases filed

by the Department's Antitrust Division in the last several years. Hoffmann-La Roche, BASF, and Sommer are cooperating with the investigation.

The Department also confirmed the announcement by Rhone-Poulenc, SA, the French Pharmaceutical Company, that it has been cooperating with the investigation under the Antitrust Division's Corporate Leniency Program. Under the Leniency Program, a company may qualify for protection from criminal prosecution if it voluntarily reports its involvement in a crime and satisfies certain other criteria.

"The cooperation of Rhone Poulenc, together with information being provided by others, led directly to the charges filed today and the decision of the defendants not to contest the charges and to cooperate with our investigation," said Gary R. Spratling, the Antitrust Division's Deputy Assistant Attorney General for criminal enforcement. "Rhone Poulenc conspired with Hoffmann-La Roche and BASF, but the information provided by Rhone Poulenc was what the Division needed to crack the largest antitrust conspiracy uncovered to date." Spratling also said that once Hoffmann-La Roche and BASF decided to step forward and accept responsibility for their actions, they each provided a level of cooperation nothing less than exemplary.

According to the charges, Hoffmann-La Roche and BASF agreed with the world's other major vitamin manufacturers to suppress and eliminate competition in the U.S. and elsewhere. The criminal cases charge that Hoffmann-La Roche, BASF, and Sommer, with unnamed co-conspirators:

- Agreed to fix and raise prices on Vitamins A, B2, B5, C, E, Beta Carotene and vitamin premixes;
- Agreed to allocate the volume of sales and market shares of such vitamins;
- Agreed to divide contracts to supply vitamin premixes to customers in the U.S. by rigging the bids for those contracts; and,

- Participated in meetings and conversations to monitor and enforce adherence to the agreed-upon prices and market shares.

The two-count criminal case against Sommer charges him with participating in the same vitamin conspiracy and lying to the Department of Justice by providing false, fictitious and fraudulent information to investigators when he was questioned about the vitamin conspiracy.

Klein said, “The prosecution of Dr. Sommer should send the message that foreign borders will not serve as a sanctuary from prosecution for individuals who conspire to steal from U.S. businesses and consumers. Those who lie, obstruct, and attempt to cover-up the truth in our investigations will be prosecuted and punished for those crimes as well.”

The defendants in all three cases are charged with violating Section One of the Sherman Act, which carries a maximum fine of \$10 million for corporations, and a maximum penalty of three years imprisonment and a \$350,000 fine for individuals.

Sommer was also charged with providing false statements to a government official, a violation of 18 U.S.C. § 1001, which carries a maximum penalty of five years imprisonment and a \$250,000 fine.

The maximum fine for both corporations and individuals may be increased to twice the gain derived from the crime or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine.

At sentencing, the court will determine the appropriate sentence to be imposed under the U.S. Sentencing Guidelines and whether to accept the plea agreements and impose the agreed-upon sentences. The dollars received from this fine will be deposited into the Crime Victims Fund, which is used to provide financial compensation and direct services to victims of crime and training and technical assistance for victim advocates, criminal justice professionals, and

allied professionals across the country. The fund is supported by fines paid by federal criminal offenders, not taxpayers, and is administered by the Office for Victims of Crime (OVC).

The three cases are the result of an investigation being conducted by the Antitrust Division's Dallas Field Office and the Federal Bureau of Investigation in Dallas.

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